

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

DONALD JAMES ANSON,

Plaintiff,

v.

07-CV-0035

UNITED STATES OF AMERICA,  
UNITED STATES MARSHALS SERVICE,

Defendants.

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**NOTICE OF MOTION AND MOTION TO DISMISS**

\_\_\_\_\_**PLEASE TAKE NOTICE** that the defendant, by its attorney, Terrance P. Flynn, United States Attorney for the Western District of New York, Lynn S. Edelman, Assistant United States Attorney, of counsel, will move before the Honorable H. Kenneth Schroeder, Jr., at a date and time to be determined by the Court, for an Order dismissing the complaint, pursuant to Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction. In support of the motion, defendant relies on Defendant's Memorandum of Law and Declaration of Chief Deputy U.S. Marshal, John D. Palillo, Jr., together with exhibits annexed thereto and filed herewith.

**PLEASE TAKE FURTHER NOTICE** that the defendant intends to file and serve reply papers. Therefore, pursuant to Local Rule 7.1(c), any papers in opposition to this motion must be filed and served at least eight (8) business days prior to the return date of this motion, or as otherwise ordered by the Court.

Dated: Buffalo, New York, August 30, 2007.

TERRANCE P. FLYNN  
UNITED STATES ATTORNEY

*S/LYNN S. EDELMAN*

BY:

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LYNN S. EDELMAN  
Assistant U.S. Attorney  
U.S. Attorney's Office  
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To: Donald James Anson

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 30, 2007, I electronically filed the foregoing **NOTICE OF MOTION AND MOTION TO DISMISS** with the Clerk of the District Court using its CM/ECF system.

I hereby further certify that on August 30, 2007, I also mailed the foregoing **NOTICE OF MOTION AND MOTION TO DISMISS**, by placing said copy in a post paid envelope addressed to the person hereinafter named, at a place stated below, which is the last known address, in an official depository under the exclusive care and custody of the United States Postal Service.

**ADDRESSEE**

Donald James Anson  
#12332-055  
FCI Loretto  
Unit E  
Box 1000  
Loretto, PA 15940

*S/SHARON T. BECK*

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SHARON T. BECK